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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 JAVIER FERNANDEZ,

11 Petitioner,

No. CV F 05 0040 ALA HC

12 vs.

13 BRAD ESPINOSA, Warden.,

14 Respondent.

ORDER

15 \_\_\_\_\_ /  
16 Petitioner is a state prisoner proceeding *pro se* with an application for a writ of habeas  
17 corpus under 28 U.S.C. § 2254. For the reasons stated below the petition is denied.

18 I

19 On July 4, 2003, at a prison disciplinary hearing, Petitioner was found guilty of “being  
20 under the influence of a controlled substance.” The Senior Hearing Officer reviewed the  
21 Toxicological Laboratory Report, which showed that Petitioner tested positive for  
22 methamphetamine and amphetamine. Petitioner claimed that he consumed “Contac” allergy  
23 medication prior to being tested, which produced a “false positive” on the urinalysis results.  
24 Petitioner lost 130 days of good-time credits, and also lost his job as a prison barber.

25 On July 7, 2004, the Superior Court for Kings County, denied Petitioner’s application  
26 for a writ of habeas corpus. On August 3, 2004, Petitioner sought review by the California Court

1 of Appeal, which also denied his application. The California Supreme Court denied his petition  
2 on September 16, 2004.

## 3 II

4 Federal habeas corpus relief is not available for any claim decided on the merits  
5 in state court proceedings unless the state court's adjudication of the claim:

6 (1) resulted in a decision that was contrary to, or involved an  
7 unreasonable application of, clearly established Federal law, as  
determined by the Supreme Court of the United States; or

8 (2) resulted in a decision that was based on an unreasonable  
9 determination of the facts in light of the evidence presented in the  
State court proceeding.

10 28 U.S.C. § 2254(d).

11 Under § 2254(d)(1), “[a] state court decision is ‘contrary to’ . . . clearly established  
12 [United States Supreme Court] precedents if it ‘applies a rule that contradicts the governing law  
13 set forth in [Supreme Court] cases,’ or if it ‘confronts a set of facts that are materially  
14 indistinguishable from a decision of [the Supreme] Court and nevertheless arrives at a result  
15 different from [the Supreme Court’s] precedent.” *Early v. Packer*, 537 U.S. 3, 8 (2002) (quoting  
16 *Williams v. Taylor*, 529 U.S. 362, 405-06 (2000)).

17 Under the “unreasonable application” clause of § 2254(d)(1), a federal court may grant  
18 habeas corpus relief if the state court identified the correct governing legal principle from the  
19 Supreme Court’s decisions, but unreasonably applied that principle to the facts of the prisoner’s  
20 case. *Williams*, 529 U.S. at 413. A federal habeas court, however, “may not issue the writ  
21 simply because that court concludes in its independent judgment that the relevant state-court  
22 decision applied clearly established federal law erroneously or incorrectly. Rather, that  
23 application must also be unreasonable.” *Id.* at 412; *see also Lockyer v. Andrade*, 538 U.S. 63, 75  
24 (2003) (it is “not enough that a federal habeas court, in its independent review of the legal  
25 question, is left with a ‘firm conviction’ that the state court was ‘erroneous’”).  
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1 A federal habeas court reviews challenges to the sufficiency of the evidence by  
2 determining whether after “viewing the evidence in the light most favorable to the prosecution,  
3 any rational trier of fact could have found the essential elements of the crime beyond a  
4 reasonable doubt.” *Lewis v. Jeffers*, 497 U.S. 764, 781 (1990). “[T]he standard must be applied  
5 with explicit reference to the substantive elements of the criminal offense as defined by state  
6 law.” *Jackson v. Virginia*, 443 U.S. 307, 324 n.16 (1979).

7 The court looks to the last reasoned state court decision as the basis for the state court  
8 judgment. *Avila v. Galaza*, 297 F.3d 911, 918 (9th Cir. 2002). Where the state court reaches a  
9 decision on the merits but provides no reasoning to support its conclusion, a federal  
10 habeas court independently reviews the record to determine whether habeas corpus relief is  
11 available under section 2254(d). *Delgado v. Lewis*, 223 F.3d 976, 982 (9th Cir. 2000).

### 12 III

13 Since there is no reasoned opinion set forth by the state, this court will independently  
14 review the record of the prison disciplinary hearing. In the instant case, Petitioner claims his  
15 Fourteenth Amendment due process rights were violated because he was not provided with  
16 copies of the documents related to his charge (including the urinalysis results), nor was he given  
17 these documents for use upon appeal. Respondents claim that, “the Petition must be denied since  
18 no Supreme Court precedent establishes that Petitioner is constitutionally entitled to a retest of  
19 his urine.” Answer at 4:10.

### 20 A

21 Petitioner has a due process right to present documentary evidence in his defense, when  
22 doing so would not be unduly hazardous to institutional safety or correctional goals. *Wolff v.*  
23 *McDonnell*, 418 U.S. 539, 554 (1974). In the context of an inmate's right to produce  
24 documentary evidence, the United States Supreme Court has noted that deference is often due to  
25 prison officials, and that the due process clause does not deprive them of discretion by subjecting  
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1 them to "unduly crippling constitutional impediments." *Wolff*, 418 U.S. at 566-67. Accordingly,  
 2 some deference is due to Respondents' claims that their actions were dictated by administrative  
 3 necessity. Moreover, there is no constitutional provision that requires prison officials to supply  
 4 an inmate with a copy of test results or to let him view the evidence in a prison disciplinary  
 5 hearing. *See, e.g., Harrison v. Dahm*, 911 F.2d 37, 41 (8th Cir. 1990) (holding that due process  
 6 does not require prison officials to provide a drug re-test or provide an inmate with the  
 7 documentary evidence of the results).

8 In addition, there is sufficient evidence here to support Petitioner's conviction. In  
 9 *Superintendent v. Hill*, 472 U.S. 445, (1985), the Court described the amount of evidence  
 10 necessary to support a finding in the context of prisoner disciplinary proceedings:

11 We hold that the requirements of due process are satisfied if *some evidence*  
 12 supports the decision by the prison disciplinary board to revoke good time  
 13 credits. This standard is met if "there was *some evidence* from which the  
 14 conclusion of the administrative tribunal could be deduced . . . ."  
 15 Ascertaining whether this standard is satisfied does not require  
 16 examination of the entire record, independent assessment of the credibility  
 17 of witnesses, or weighing of the evidence. Instead, the relevant question is  
 18 whether there is any evidence in the record that could support the  
 19 conclusion reached by the disciplinary board . . . . we decline to adopt a  
 20 more stringent evidentiary standard as a constitutional requirement.  
 21 *Id.* at 455-56 (emphasis added and citations omitted).

22 Urinalysis reports have been found to be sufficiently reliable to satisfy the "some  
 23 evidence" standard for purposes of a due process claim. *See, e.g., Pool v. Haro*, 2006 U.S. Dist.  
 24 LEXIS 9403, at \*11 (E.D. Cal. Mar. 8, 2006) (holding that positive urinalysis results constitute  
 25 "some evidence" of petitioner's drug use); *White v. Croswell*, 1992 U.S. App. LEXIS 13367, at \*3  
 26 (9th Cir. May 29, 1992) (holding that a positive urinalysis test proves some evidence of  
 intoxication regardless of the chain of custody).<sup>1</sup> Therefore, Petitioner's claim fails because the  
 positive urinalysis report alone was sufficient evidence to satisfy due process.

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<sup>1</sup>Unpublished opinion citing, *Thompson v. Owens*, 889 F.2d 500, 501 (3d Cir. 1989)  
 (holding that positive urinalysis results meet the "some evidence" standard).

Additionally, Petitioner argues that if officials fail to submit a urinalysis re-test, any test results based on the first test must be considered unreliable. There is no case law to support Petitioner's argument. The due process requirements in this context are minimal, and they are met here. *See, e.g., Jones-Heim v. Reed*, 2007 U.S. App. LEXIS 15014, at \*3 (9th Cir. June 6, 2007)<sup>2</sup>.

# B

Petitioner also argues that his due process rights were violated because he was not given the incident and sobriety reports for his appeal. However, there is no case law that states that an inmate has a constitutional right to have these documents for the purposes of appealing the ruling of a disciplinary board. Petitioner cites *Wolff*, 418 U.S. at 554, for the proposition that documentary evidence must be given to inmates for appeal. However, *Wolff* only states that inmates have a right to documentary evidence at their disciplinary hearing, and mentions nothing about the right to documents for appeal. *Wolff*, 418 U.S. at 539.

Additionally, courts have held that even after a disciplinary hearing, an inmate does not have a constitutional right to documentary evidence regarding the results of a drug test. *See, e.g., Harrison v. Dahm*, 911 F.2d 37, 41 (8th Cir. 1990) (holding that due process does not require prison officials to provide a drug re-test or provide an inmate with the documentary evidence of the results). Because there is no case law that gives Petitioner the right to documentary evidence upon appeal regarding drug tests, Petitioner's due process claim fails.

## IV

In accordance with the above, IT IS HEREBY ORDERED that Petitioner's application for habeas corpus relief under § 2254 is denied.

<sup>2</sup>In *Reed*, Petitioner tested positive for drugs and lost good-time credit at his disciplinary hearing. Petitioner claimed that his medication “Midrin” caused a false-positive on the urinalysis. The court ruled that since he tested positive in the initial test, the “some evidence” standard was met under *Hill*, and his application for habeas corpus was denied. *Id.* at \*3 (citing *Thompson*, 889 F.2d at 501).

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2 DATED: February 7, 2008

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4 /s/ Arthur Alarcón  
5 UNITED STATES CIRCUIT JUDGE  
6 Sitting by Designation  
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